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SUPREME COURT, U.S.

No. 98-17

IN THE
UNITED STATES SUPREME COURT
AMERICA

October Term, 1998

In Re:
Eileen Vey

THE INTERGALACTIC CASE OF LAW AND ORDER

SUPPLEMENT TO
Extraordinary Writ
Petition of Mandamus/Prohibition

Rev. & Dr. Eileen Vey, Th.D.
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22 pp

QUESTION PRESENTED

I.

WILL THIS CASE BRING
JUSTICE FOR ALL.

PARTIES INVOLVED

The United States of America, all goverments of the universe, and "We The People of the Universe!" The Supplemental Petition involve PA Attorney General, Allegheny County D.A.

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No. 98-17
In The
United States Supreme Court
AMERICA

October Term, 1997

In re
Eileen Vey

Supplement To Petition For An
EXTRAORDINARY WRIT

Eileen Vey demands that this Court order PA state to declare her innocence due to "reasonable doubt" in this case of civil rights deprivations of habeas corpus, etc. services.

PREVIOUS ORDERS

As has been noted, all cases ended in denials and, therefore, Vey believes she has been denied due process and has suffered extreme prejudice both here and below.

JURISDICTION

After almost a decade of litigation in federal court, jurisdiction is invoked under 28 §§ 1651(a), 2241, 2254, because she can not obtain relief any other place and, therefore, it is the responsibility of this court to correct the wrongdoing below, **Article VI (2)**, Supplements Rule 15.8.

U.S. CONSTITUTIONAL PROVISION

Due to "reasonable doubt of sanity" and the"exception clause" of the Pennsylvania Gun Law in this case the

provisions involved are Amendments 2, 4, 5, 6, 7, 8, 14, and Articles I § 9 (2) and VI (2).

STATEMENT OF CASE

Eileen Vey has for long years repeatedly proved "reasonable doubt of sanity" with trial transcripts, affadavits, medical documents, photos, in her state case in which she is still in illegal custody to the state parole.

Reasons For Granting Writ

For long years, the U.S. Court of Appeals (3RD) 1) has entered decisions in conflict with other U.S. Courts of Appeal, even their own (discriminative), 2) so departed from the accepted and usual course of judicial proceedings, 3) sanctioned such a departure by lower court, as to call for an exercise of this Court's supervisory power and 4) decided important federal questions in a way that conflicts with this Court; and this Court has gone against a multitude of its own decisions. LEGAL CHAOS!

EXTREME PREJUDICE

For long years, Vey has requested the federal court system to do its duty, Article VI (2), of declaring her innocent due to "reasonable doubt of sanity" in both habeas corpus writs and civil rights cases. Habeas Corpus relief under civil rights deprivations of the 42 USC § 1983 statute is not new to the U.S. SUPREME COURT, which granted writ of certiorari in **Heck v. Humphrey** (1994) 127 LED 2d 69, a prisoner's § 1983 civil rights case containing a demand for a habeas corpus, as Vey. (See also Appendix)

Somewhere in the court's records, there is a case in which a prisoner had to submit litigation on a piece of toilet paper and he got relief. Also, the courts has always treated pro se cases with understanding, because the person is not a lawyer, yet the Clerk has repeatedly returned Vey's litigation, much of which was appropriate, and the courts has repeatedly denied Vey's "reasonable doubt of sanity" and prima facie" case in both §§ 2254 & 1983 submissions.

Vey has suffered extreme prejudice in the federal court system: a valid case with no lawyer, deprivations of due process, with no lawyer she is forced to testify against her

self, court ruled in Vey's case against own previous rulings, Vey forced to pay while poor (§ 2254), ordered to submit cases as professional lawyers. See Vey's briefing No. 96-3751 (CA3RD). In regards to all cases, she has gross legal evidence of extreme prejudice some of which follows below, 28 USC §§ 47, 144, 455(d), no recusals as law demands:

U.S. ex rel Fink v. Tod (1924) 1 F2d 246 revd on other grounds 267 US 571,

> "Purpose of statutory disqualification is to make certain that the U.S. Court of Appeals consists of Judges uncommitted and uninfluenced by having expressed or formed opinion in court of first instance.."

As stated in **Harris v. Champion** (1994), 15 F3d 1538,

> "Standard under federal recusal statues is an objective one and requires recusal whenever reasonable person, knowing all relevant facts, would harbor doubts about judge's impartiality."

In reference to this case' legal premise under 42 USC § 1983, RICO, and 18 USC § 1346, Vey need show rightful deprivations by respondents, **U.S. v. Brown** (1976) 540 F2d 364: (See also Appendix 1)

> "A deceptive scheme will be violative of this section, if it is shown to operate to deprive individuals of significant intangible rights or interests."

> "For the purposes of this chapter, the term 'scheme or artifice to defraud' includes a scheme or artifice to deprive another of the intangible right of honest services." 18 USC § 1346.

DENIED COUNSEL

Vey was abandoned by counsel on appeal, thereby being forced to illegally testify against herself with 1984 confused data of a time she was suffering PTSD from beatings and other abuse, nightmares, all of which was confused with 1984 reality. This envokes violations of Amendment 1 (right to petition judicial government for redress of grievance, Amendment 5 (testify against self), Amendment 6 (right to counsel), Amendment 14 (due process),

Amendment 2 (right to bear arms), Amendment 14 "equal protection" of PA state gun law "exception clause" and homocide defenses.

Furthermore, in **Edwards v. Arizona** (1991), 451 U.S. 477, **this Court** has held that once a suspect invokes his Fifth Amendment right to counsel, not only must the interrogation cease, but the police cannot reinterrogate or otherwise initiate contact designed to produce incriminating statements..

Vey was abandoned by counsel and forced for years, against her will, to litigate a traumatic valid state case in which "reasonable doubt" of sanity was produced.

Furthermore, **this Court** has held in **Rogers v. Richmond** (1961) 365 U.S. 534 that subjecting a defendant to pressures that violate our accusatorial system **offends the due process of law clause which the Fourteenth Amendment guarantees**.

Furthermore, **this Court** in the case of **Miller v. Fenton** (1985) 474 U.S. 104 has ruled accordingly:

> "Certain interrogation techniques, either in isolation or as applied to the unique characteristics of a particular suspect, are **so offensive to a civilized system of justice that they must be condemned**."

Furthermore, **this Court** also has held that under the Fifth Amendment provision against self-incrimination, an accused has right to counsel during in-custody (Vey in custody to parole) interrogations prior to the initiation of adversary proceedings, **Kirby v. Illinois** (1972), 405 U.S. 682, 689.

Under 42 USC § 1983, Vey need show rightful deprivations by respondents:

> "Every person who, under color of any statute, ordinance, regulation, custom or usage, or any State or Territory of the District of Columbia, subjects, or caused to subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in any action at law, suit in equity, or other proper proceeding for redress.."

Alexander v. "American United," Inc. 416 U.S. 745:

> "Irreparable injury is the essential prerequisit for injunctive relief."

Truly v. Wanzer, 12 LEd 88:

> "To obtain an injunction, the right must be clear, the injury impending and threatened so as to averted only by the protecting preventive process of injunction."

The Third Circuit deprived Vey of her right to their own rulings in which they ruled against TWO of their recent cases at time she presented her brief for medical injunction (discrimination). **Barton v. Eichelberger** (CA3RD 1970) 451 F2d 263 and **Merchant & Evans v. Roosevelt Building Products** (CA3RD 1992), 963 F2d 628, 632.

PRIMA FACIE HABEAS CORPUS

In reference to Vey's Prima Facie Habeas Corpus of long years submissions, THE UNITED STATES SUPREME COURT has ruled in the applicable case of **Batson v. Kentucky**, 476 U.S. 79:

> "person claiming to have been a victim of intentional discrimination (employment may make out a prima facie case) by relying solely on the facts concerning the alleged discrimination against him."

THE UNITED STATES SUPREME COURT also has ruled in an applicable case concerning Vey's SEEKING PRIMA FACIE HABEAS CORPUS RELIEF (i.e., her voluminous evidence attached in previous submissions, trial transcripts, photo, medical documents, affadavits), **Thompson v. Baltimore & O.R. Co.** (1945) 59 FS 767, cert denied 329 U.S. 762, 91 LEd 657:

> "investing the federal courts with power to declare the rights of any interested party seeking the declaration must plead and prove the facts which entitle him to relief, inasmuch as he is affirmatively seeking a judgment to establish his rights."

Courts use the concept of "prima facie" case in two senses: (1) in sense of plaintiff producing evidence sufficient to render reasonable a conclusion in favor of allegation she asserts; and (2) in sense that, not only the plaintiff's evidence would reasonably allow conclusion plaintiff seeks,

but also that plaintiff's evidence compels such a conclusion, if the defendants produce no evidence to rebut it, **Husbands v. Com of PA**, D.C. of PA , 395 FS 1107, 1139.

Prima Facie Evidence is evidence good and sufficient on its face and such evidence which, in the judgment of the law, is sufficient to establish a given fact. Moreover, prima facie evidence is evidence which, if unexplained or uncontradicted, is sufficient to **sustain a judgment in favor of the issue which it supports. State v. Haremza**, 213 Kan. 201, 512 P.2d 1217, 1222.

'REASONABLE DOUBT"

What is the "reasonable doubt" of which Vey demands that **this Court** declare her innocence and, therefore, command Pennsylvania to clear her of all charges immediately? REASONABLE DOUBT OF SANITY OR CONSCIOUSNESS (responsibility)!!

Vey has for long tiring years has supported her claims of "illegal custody" and "kidnapped under color of state" with exceptional voluminous evidence in the courts and, not only have new evidence to this particular case, but **new evidence to the court**. That evidence is the confidential file of the late Pittsburgh City Councilman and attorney, Robert Rade Stone, which file states that when he saw Eileen Vey in jail after her arrest, she stated to him that she did not remember anything. This verifies the BLACKOUT, showing lack of responsibility, "reasonable doubt!"

The repeated evidence is 1) Vey's own declaration of "illegal custody," "kidnapped under color of state," which meets the unrebuted prima facie evidence law, 2) trial records of supporting evidence, 3) medical records of beatings, 4) Press photo of bag lying next to deceased (weapons known to be carried by him, according to trial record testimony, were allegedly not found on or in his bag of deceased (evidence tampering), 5) marriage licence copy proving married by PA Common Pleas Judge, Vey crime detection of Heinz murder (possible case tampering: note Vey was abandoned by Federal Public Defender, Thomas W. White and PA state appointed attorney Lynn McBeth, and her PCRA was in the Court of Common Pleas 4 years!), 6) PA gun law "exception clause" 18 PA CSA § 6101 (b), trial testimony and Vey's statement of nomadic life in station wagon (deceased running from prosecution) and, therefore,

met the exception rule. The trial records of overwelming evidence of "reasonable doubt" were statements of witnesses stating 7) Vey cried for "help," 8) suffering the "battered wife syndrome," and bi-polar condition at the time of the torturous life (psychiatrist), the gun being fired **without bullets** (detective), right from wrong issue, 9) Vey complained of head hurting and detective gave head ache medicine (possible head injury), but did not let her see medical doctor (detective statement) and now the **new evidence** of 10) the file report stating Vey had no memory of the tragedy by the late attorney Robert Rade Stone, evidence Vey never submitted previously (unavailable).

Vey again has proved "reasonable doubt" of the 3RD Homocide (acquitted of 1ST) charge and the PA Gun charge: life-style was that of a transient, nomad, wagon was home, which situation warrants the "exception clause."

Therefore, because there is no "proof of guilt beyond a reasonable doubt," the rule of **Jackson v. Virginia**, 443 US 307 (1979), at 324, (reh dn 444 US 307) is grossly applicable to Vey's case.

> "The applicant is entitled to habeas corpus relief if it is found that upon the record evidence adduced at trial no rational trier of fact could have found proof of guilt beyond a "reasonable doubt."
>
> See also Com. v. Ruth, McNaughten Rule

CONCLUSION

THEREFORE, the petitioner, Eileen Vey, hereby demands that this court declare her innocent and order PA state to vacate judgment and clear the record of the both charges.

Respectfully submitted,

Eileen Vey, po se

Appendix 1

IN THE SUPREME COURT OF PENNSYLVANIA
Western District

COM OF PENNSYLVANIA	:	
v.	:	No. 57
	:	W.D. Misc. Dkt. 1996
EILEEN VEY,	:	
Petitioner	:	

ORDER

PER CURIAM:

AND NOW, this 20th day of June, 1996, the Petition for Review is denied.

Appendix 2

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 91-3021

EILEEN VEY, 007617
v.
WILLIAM WOLFE

Eileen Vey,
Appellant

On Appeal From the U.S. District Court
For the W.D. of Pennsylvania
(D.C. Civil Action No. 90-00035)
District Judge: Honorable Barron P. McCune

Submitted Pursuant to Third Circuit Rule 12(6)
September 3, 1991

BEFORE: STAPLETON, GREENBERG, and ALIDSERT,
Circuit Judges

(Opinion Filed Nov 13 1991)

RECEIVED
NOV 16 1991
FEDERAL PUBLIC DEFENDER
W.D. OF PENNSYLVANIA
(THOMAS W. WHITE)

CLIENT'S COPY

OPINION OF THE COURT

PER CURIAM:

Petitioner Eileen Vey is a prisoner at the State Correction Institution in Muncy, Pennsylvania. Following a bench trial in the Court of Common Pleas for Allegheny County in 1985, she was convicted of third degree murder and unlawful firearms possession and was sentenced to serve seven to eighteen years imprisonment. The Superior Court affirmed the judgment of sentence, and thereafter the Pennsylvania Supreme Court declined to hear Vey's appeal.[1] In September, 1988, Vey filed a petition pursuant to Pennsylvania's Post Conviction Relief Act (PCHA). After an evidentiary hearing, the petition was denied in August, 1989. Several weeks later, petitioner's counsel filed a notice of appeal from the denial of this petition.

Also in September, 1989, Vey filed her first petition for writ of habeas corpus in the United States District Court for the Western District of Pennsylvania. Soon thereafter,

---

1. Vey raised four issues before both the Superior Court and the Pennsylvania Supreme Court in her direct appeal: (1) Whether the trial court erred in failing to suppress two statements taken in violation of Miranda v. Arizona, 384 U.S. 436 (1966); (2) whether the trial court erred when it refused vey's request to introduce evidence of the victim's past criminal record; (3) whether the trial court erred in failing to grant a new trial due to the verdict being against the weight of the evidence; and (4) whether it was unconstitutional for the trial court to require Vey to prove her own insanity.

petitioner filed a pro se notice of withdrawal of her state PCRA appeal, stating that she wished to pursue her claims in federal court. Prior to receiving formal notice of this withdrawal, the federal district court dismissed the habeas petition for failure to exhaust state remedies. This court subsequently denied Vey's request for a certificate of probable cause.

Vey filed the instant, second petition for writ of habeas corpus on January 9, 1990. This petition originally raised three claims; as amended, the petition raises seven claims.[2] The magistrate recommended that the petition be denied because petitioner had deliberately bypassed available state court remedies. By memorandum order entered January 4, 1991, the district court (McCune, J.) adopted the magistrate's report and recommendation, denied the habeas petition and found no probable cause for appeal.

Vey filed a notice of appeal, and this Court granted a certificate of probable cause on April 11, 1991. We have jurisdiction under 28 U.S.C. §§ 2253 and 1291.

---

2. The seven claims raised in the instant petition are as follows: (1) the verdict was against the weight of the evidence; (2) the PCRA judge acted under a conflict of interests; (3) counsel at trial rendered ineffective assistance; (4) exculpatory evidence regarding petitioner's mental health was ignored; (5) denial of a fair trial due to admission of perjured testimony; (6) statements were obtained and admitted at trial in violation of Miranda; and (7) there was exculpatory evidence at trial showing petitioner's failure to distinguish right from wrong. All these claims had been raised in Vey's PCRA petition.

About a valid excuse, a peitioner must fairly present all federal claims to the highests state court before they may be reviewed by a federal court on a habeas petition. 28 USC § 2254(b); Rose v. Lundy, 455 U.S. 509 (1982). In some cases, however, the petitioner is unable to present claims to the highest state court due to a procedural bar. In this case, for example, Vey withdrew her PCRA appeal before reaching the Pennsylvania Supreme Court; as a result, she may not again raise these claims in state court. Commonwealth v. Shaffer, 569 A.2d 360, 363-64 (Pa. Super. 1990), appeal denied, 577 A.2d 889 (pa. 1990).

In Coleman v. Thompson, ___U.S.___, 111 S.Ct. 2546 (1991), the United States Supreme Court recently held that where a state prisoner's federal claims are barred in state court because of a default on her part, and the prisoner is thus prevented from presenting her claims to the highest state court, habeas review of the claims in the federal system is barred unless the prisoner can demonstrate cause for the default and actual prejudice as a result of the alleged violation of federal law. The Court did not base its decision on the principle of exhaustion, but rather on the independent and adequate state ground doctine: that is, where a prisoner has defaulted her federal claims in state court, her custody is supported by the procedural bar itself. If a federal court were to require a new trial for a prisoner in these circumstances, it would render ineffective the state procedural rule. Id., 11 S. Ct. at 2554.

Vey argues that the withdrawal of her PCRA appeal was a mistake, taken without the advice of counsel, and suggests that this error is sufficient cause for her default. The Court in Coleman, however, made clear that the petitioner bears the risk of procedural errors made in state proceedings. Indeed, the Court stressed that only constitutionally ineffective assistance of counsel constitutes cause; otherwise, the State bears no responsibility for the default. Id. at 2566-67; See also Murray v. Carrier, 477 U.S. 478, 488 (1986) (responsibility for errors of constitutionally ineffective counsel imputed to the State through Sixth Amendment). Because petitioner enjoys no constitutional right to counsel in post-conviction proceedings, Vey's decision to withdraw from collateral state review is therefore not cause for her default. Coleman, 111 S.Ct. at 256-67. This is true even though Vey apparently withdrew

her PCRA appeal with the intention of getting to federal court as soon as possible. It follows that Vey could not advance before the district court the seven challenges to her conviction contained in her PCRA petition.

This does not end our jurisdiction inquiry, however. Before commencing collateral review, Vey appealed her conviction directly to the Supreme Court of Pennsylvania. It is well settled that a petitioner need not appeal issues through the state courts more than once in order to exhaust her claims. Castille v. Peoples, 4889 U.S. 346, 340-51 (1989) (where petitioner has fairly presented claim to state courts through direct appeal,subsequent collateral review not necessary for exhaustion); Brown v. Allen, 344 U.S. 443, 447-50 (1953)("[i]t is not necessary...for the prisoner to ask the state for collateral relief, based on the same evidence and issues already decided by direct implicate the independent and adequate state ground doctrine, because the procedural default occurring on collateral review did not prevent the Supreme Court of Pennsylvania from facing these issues once. Finally, inclusion of claims that are procedurally barred does not render this a "mixed petition" of exhausted and unexhausted claims whidh must be dismissed in its entirety under Rose v. Lundy, 455 U.S. 509 (1982). All the claims raised by Vey in the instant petition are exhausted because state remedies are no longer available with respect to any of them. Engle v. Isaac, 456 U.S. 107, 125-26 n. 28 (1982); See also Teague v. Lane, 489 U.S. 288, 298 (1989) (where collateral relief is unavailable due to procedural bar, state remedies have been "exhausted" with respect to that claim). Further state review of the barred claims is no longer possible; application of the Rose rule here would have the effect of forever excluding truly exhausted claims from federal haeas review.

It follows that the district court should have considered claims presented in the petition which had previously been considered on direct appeal. Two issues have thus been preserved: (1) whether the trial court erred in failing to oppress two statements made by Vey taken in violation of Miranda, and (2) whether the trial court erred in failing to rant a new trial when the verdict was against the weight of the evidence.

We will reverse the judgment of the district court and remand for further proceedings consistent with this opinion.

TO THE CLERK

Please file the foregoing Per Curiam Opinion.

By the Court.

Circuit Judge

Appendix 3

(Four Pages)

Please turn booklet sideways to view copy of original record divided into next four (4) pages.

ROBERT RADE STONE, ESQUIRE

W O R K S H E E T

Pft_____ Dft_____ Date:_____ File#_____

CLIENT: MUSHINSKY, EILEEN

Address:_____

Phone:_____ Bus:_____

Born:_____ Guardian:_____

Marital Status:_____ Spouse:_____

INS: Med Pay:_____ Hosp:_____

Property:_____

NAME:_____

Address:_____

Phone:_____ Bus

Ins. Co._____

Claim No:_____

Co: _____ Adj: _____ Phone: _____

Claim No: _____ Atty: _____ Phone: _____

FEE: Flat: _____ Time: _____ Address: _____

Cont: _____ Amount: _____

Rate: _____

KIND OF CASE: _____ D/A: _____ S/L: _____

HEARING DATE: _____ Referred by: _____

(2)

DATE	SERVICE OR REMARKS	TIME	CHARGE	ATTY
6/13/84	T/C FROM Ann Hawk. Allegedly Eileen Mushinsky shot 2nd husband on the bridge. Allegedly she married him 12/22/83 and he's a man with 11 children. I'm to check this out.	.3		RRS:pgn
6/15/84	T/C, COLLECT, from Eileen Mushinsky from County Jail. Request we visit Monday. Request advise.	.3		RRS:pgn

6/18/84	WENT, PER REQUEST, to s Mushinsky Vey in re: advise. She claims no memory of events. Could not advise. Recommended she get an attorney.	1.0		RRS:pgn
7/30/84	T/C FROM Mrs. Vey in re: conference tonight. Set it up at 9 p.m.	.3		RRS:pgn
7/30/84	CONFERENCE WITH Mrs. Vey. After getting the facts, I recommended she get an attorney immediately. The matter is very serious and too much time is passing without preparation.	.5		RRS:pgn

(3)

(4)

DATE	SERVICE OR REMARKS	TIME	CHARGE	ATTY
8/15/84	DIRECTED ASSOCIATE to call Lester Nauhaus at Public Defender's Office in re: complaint of service on her homicide case.	.3		RRS:pgn
10/19/84	RECEIVED CALL FROM Client and since RRS was tied up, she wanted to inform me that the Judge got a private attorney, (Peter Dickson) to represent her in this case and she was grateful for what office did in matter.	.2		RJF:js
12/19/84	----------CLOSED----------			RRScjd

ORIGINAL.

I, D. Martin Wekselman

hereby certify that on the 22 day of December one thousand nine hundred and 33 at Pittsburgh

Eugene C. Vey and Eileen Muslinsky

Were, by me

United in Marriage,

in accordance with license issued by the Clerk of the Orphans' Court Division of the Court of Common Pleas of Allegheny County, Pennsylvania,

Numbered 57632 Series TWO-C Signed D. Martin Wekselman

Title Judge Court of Common Pleas

Appendix 4
(Two Pages)

BEST AVAILABLE COPY

THIS LICENSE MUST BE USED WITHIN 60 DAYS FROM DATE OF ISSUE

COMMONWEALTH OF PENNSYLVANIA } ss.
COUNTY OF ALLEGHENY

No. 57632 Series TWO-C

To any Person Authorized by Law to Solemnize Marriage:

You are hereby authorized to join together, in the holy state of matrimony, according to the Laws of the Commonwealth of Pennsylvania.

Eugene C. Vey, of full age and ~~never~~ once heretofore married, and Div. January 11, 1983

Eileen T Mushinsky, likewise of full age and ~~never~~ twice heretofore married, Div 10-1967 Div. February 10, 1981.

Given under my hand and seal of the Orphans' Court Division of the Court of Common Pleas of the County of Allegheny, at Pittsburgh, this 19th day of December Anno Domini one thousand nine hundred and Eighty - Three.

Rita Wilson Kane Clerk